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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,557	02/03/2004	David Oliwa	6806P001	3739

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EXAMINER

CRAIG, PAULA L

ART UNIT PAPER NUMBER

3761

DATE MAILED: 07/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

68

Office Action Summary

Application No.

10/771,557

Applicant(s)

OLIWA, DAVID

Examiner

Paula L. Craig

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4 and 6-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4 and 6-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. The objections to the drawings under 37 CFR 1.83(a) are withdrawn. The objections to the drawings under 37 CFR 1.84 listed on Form PTO-948 included with the prior Office Action, mailed October 18, 2005, are maintained for the reasons of record. The prior rejections of Claims 2, 3, 5, and 9-11 are moot in view of the cancellation of these claims. The rejections of Claims 1, 4, 6, 7, and 8 under 35 U.S.C. 103(a) over Whiting are moot in view of the new grounds of rejection. Applicant's arguments filed April 24, 2006 have been fully considered. Applicant argues that Whiting does not teach a housing for the control device, nor a battery within the housing. Whiting does teach a housing for the control device, in the form of a wearable pouch to contain the various connected components, including the battery (Whiting, paragraph 22). Whiting teaches that the wearable pouch helps with ease of movement and discreet appearance (paragraph 22). Applicant argues that motivation is lacking to combine Whiting and Hoover, as Hoover does not teach a housing for a control device or providing electrical power to operate a drain valve. Hoover teaches a storage container resembling a pager, which is intended to be worn attached to the clothing and to disguise items which might otherwise cause embarrassment (col. 3, lines 12-18 and col. 4, line 65 to col. 5, line 8). The term "housing" is a general term for a space intended to contain something. There are no limitations in the claims which differentiate a housing from a storage container, or which particularly suit the claimed housing for

containing the claimed control device. It is well known in the art to use appropriate housings and storage containers to contain items. Whiting teaches the use of a wearable pouch to contain the control device to avoid embarrassment, while Hoover teaches a wearable pouch designed to carry embarrassing items discreetly. Motivation is therefore found to combine the references.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1, 6, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whiting in view of Hoover.
4. For Claim 1, Whiting teaches an apparatus for draining a urine collection bag, an electrically operated drain valve coupled to a drain tube of the urine collection bag, a control device for remotely controlling the drain valve adapted to be worn by a person, the control device including a drain valve actuation control, as described in the prior Office Action mailed October 18, 2005. Whiting teaches a housing for the control device for securing the apparatus to a user (wearable pouch, paragraph 22, lines 25-29). Whiting teaches a battery disposed within the housing for providing electrical power to operate the drain valve (paragraphs 21-22). Whiting teaches that the apparatus is portable and compact so as to be worn by the user (paragraph 8). Whiting teaches that the apparatus may be mounted in any suitable location to be worn in a discreet manner (paragraph 14). Whiting does not teach the housing including a clip for

Art Unit: 3761

securing the housing to a belt or waistband, or a simulated display window such that the housing resembles a pager. Hoover teaches a housing which includes a clip suitable for securing the housing to a belt or a waistband (securing means 42, Figs. 2, 4, and 5, and col. 4, line 65 to col. 5, line 8). Hoover teaches the clip serving to attach the housing to the clothing to reduce the chance of its being lost (col. 4, lines 65-68).

Hoover also teaches the housing including a simulated display window such that the housing resembles a pager (display 46, Figs. 1, 2, 4, and 5, and col. 5, lines 8-24).

Hoover teaches that the housing is a storage container for storing items that may cause embarrassment if observed by other people (col. 3, lines 13-19). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Whiting to include the housing having a clip and a simulated display window, as taught by Hoover, to attach the apparatus to clothing and avoid loss of the apparatus, and to avoid embarrassment, as taught by Hoover, for the same reasons as described above in paragraph 1.

5. For Claim 6, Whiting teaches the drain valve being secured to the ankle of the person, for the same reasons as described in the prior Office Action mailed October 18, 2005.

6. For Claim 8, Whiting teaches the drain valve actuation control including a push-button switch, as described in the prior Office Action.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Whiting in view of Hoover and further in view of Fabricant.

8. For Claim 7, Whiting/Hoover teach all the limitations of Claim 6, as described above in paragraph 5. Whiting does not expressly teach a strap having a hook and loop closure for securing the drain valve to the ankle of the person. Fabricant teaches that hook and loop fasteners are preferred over other types of fasteners to firmly attach urine collection bags to the leg of a person while allowing for adjustability in diameter to fit around the leg, as described in the prior Office Action mailed October 18, 2005. It would have been obvious to one of ordinary skill in the art to modify Whiting to include a strap having a hook and loop closure as taught by Fabricant, to allow for adjustability in fit, as taught by Fabricant, for the same reasons as described in the prior Office Action.

Allowable Subject Matter

9. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable over the prior art if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The closest prior art is U.S. Patent Application Publication No. 2002/0173758 to Whiting, and U.S. Patent Nos. 6,520,334 to Hoover, 4,631,061 to Martin, and 5,555,490 to Carroll. Whiting teaches an apparatus for discreetly draining a urine collection bag having an electrically operated drain valve, a control device for remotely controlling the drain valve including a drain valve actuation control, a housing for the control device for securing the apparatus to a user, and a battery for providing electrical power to operate the drain valve. Whiting does not teach a clip, a simulated display window, or having the control device connected to the drain valve with a flexible flat wire cable. Hoover teaches a housing

Art Unit: 3761

having a clip and a simulated display window, but does not teach draining a urine collection bag, an electrically operated drain valve, or a flexible flat wire cable. Martin teaches a urine collection device with its controls connected by a cable to a backpack, but does not teach an electrically operated drain valve coupled to the drain tube of the urine collection bag. Carroll teaches the use of flexible flat wire cable to connect wearable electronic components. There is insufficient motivation to combine Whiting and Hoover with Martin and Carroll.

Conclusion

10. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 3761

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paula L. Craig whose telephone number is (571)272-5964. The examiner can normally be reached on 7:00AM-3:00PM M-TH, 7:00 AM-5:00 PM F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paula L Craig
Examiner
Art Unit 3761

PLC

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER
